

M E M O R A N D U M

Date: April 27, 2006
To: Interested Persons
From: George A. Twiss, Executive Director
Subject: Concise Explanatory Statement for Rules
filed as WSR 06-06-059

CHAPTER 196-34 WAC – CONTINUING EDUCATION OF LICENSED PROFESSIONAL ON-SITE WASTEWATER TREATMENT SYSTEMS DESIGNERS AND CERTIFIED INSPECTORS

Copies of the proposed rules were sent out to all licensed Professional On-Site Wastewater Treatment Systems Designers and Certified Inspectors, and were posted on the Board's website. Public comment hearings were held on: April 19, 2006, 6:00 p.m. at the La Quinta Inn, 1905 N Wenatchee Ave, Wenatchee, WA; April 20, 2006, 6:00 p.m. at the Spokane Airport Ramada, 8909 Airport Drive, Spokane, WA; and, April 26, 2006, 6:00 p.m. at the La Quinta Inn, 1425 E 27th Street, Tacoma, WA.

The rules were adopted by motion of the Board of Registration for Professional Engineers and Land Surveyors during their meeting on April 27, 2006, at the La Quinta Inn, 1425 E 27th Street, Tacoma, WA.

REASON FOR ADOPTION

These rules are adopted to implement continuing education for licensed on-site wastewater treatment system designers and certified local health department inspectors as provided in RCW 18.210.170.

DIFFERENCE IN THE PROPOSED RULE AND THE ADOPTED RULE
WSR 06-06-059 was adopted as proposed.

SPECIAL ITEM OF NOTE

In considering the adoption of these rules the Board felt that several comments had merit toward possible future changes. It was their expectation that, while they moved to adopt these rules as published, they would work with stakeholders to refine and restructure the adopted rules to incorporate the beneficial input from stakeholders in the months ahead.

SUMMARY OF COMMENTS

Comment

“Why not recognize the submitting of designs as a professional development hour? Being involved in the designing of septic systems on a continuing basis is one of the best educational tools I have found. As long as I am working on designs I am constantly looking up new information, finding out about new laws and reinforcing old ones that I already knew. Last year I turned in about 45 designs. Don’t you think that should count as something towards maintaining competency in my field?”

My suggestion would be to give each design turned in a 1 hr. professional development hour. If a person is working his license that much, he is most likely staying very much in touch with his profession.”

Response

It is understood that working at one’s profession will give that person increased understanding and skills over time. Yet that experience is an expected and integral part of professional practice. Continuing Education, by its’ intended nature, is above and beyond the experience gained in executing your daily duties.

Comment

“It appears that the Board has decided to step-up the time line for eventual termination of this program. All designers are aware of the circumstances that led-up to the adoption of the licensed designer program. The Board of Engineers and the state courts have crafted a deprecation schedule, which will effectively eliminate the designer program in 15-20 years. The requirements, as set forth by the state, make designers responsible for obtaining 45 credit hours (4.5 CEU’s) with only limited CEU opportunities. Without prior approval we are left wondering if a class will meet with the Board’s approval.

I am a registered Sanitarian and the R.S. Board requires that members maintain 3 CEU’s in a three-year period. The Designer program would not accept the broad range of topics available to me, and has limited offerings for CEU’s during the year. I can attend the WSEHA annual conference and a few classes during the year to

satisfy the R.S. CEU requirement; however, I'm not sure where the CEU's for the onsite program will come from.

Response

The rules adopted by the Board provide sufficient flexibility to enable practitioners various ways to obtain qualifying educational credit. They also specifically accepted that those practicing as a RS will be given equal credit toward the CE requirements of this program. While many RS programs have little or no relation to on-site practice, the Board believes that individuals who continue to grow in their profession are better at everything they do. As a result, the customers get better quality of professional service.

Comment

"The board expects each designer to seek-out those activities and vendors that may satisfy, in the Board's judgment, a suitable education credit. I own my own business, and each day away costs me in lost productivity, and up-front expenses. I will contact the licensed designers of the State of Washington to see if my concerns are shared by the rank and file. I want them to know that a large segment of state licensed engineers do not have CEU requirements. Continuing education is important in our field and to broaden our horizons, but in a technical field that stresses standardization you want each designer to seek-out his information and then submit to the Board for their approval? There is currently no program in place that would offer sufficient CEU's to be submitted for the Board's discretion. We are on the block without representation."

Response

While it is true that the Board will not grant pre-approval for programs or vendors, that decision was made to make the program less costly to licensees and thus avoid the need to raise fees to pay for the program expenses. However, as the Board becomes aware of certain programs, once one individual has been approved then subsequent audits that reveal attendance at the same course or seminar will be treated in kind for all.

Continuing Education should be seen as not requiring individuals to obtain technical training on details of their profession but rather educational experiences that allow the individual to grow professionally. As an example, an onsite designer sees they need training in a software application that is not specific to onsite technology but is needed for his business. The training the individual receives would be given credit because it makes the individual a better professional and provide better services.

The following comments are from the Environmental Health Directors Assoc.

Although we acknowledge the importance of maintaining professional competency in our sanitarians, and the fact that RCW. 18.210.170 requires the Board to require license certificate holders to obtain continuing education, we request that any reference to inspectors be removed from this WAC for the following reasons:

Comment

- 1. R.C.W. 18.210.060 grants the Board no authority over inspectors, this section speaks specifically about licensing, not certification.*

Response

This issue can only be addressed by future legislative amendments.

Comment

- 2. R.C.W. 18.210 grants neither the Department nor the Board the authority to withhold renewal of a certificate based upon failure to achieve continuing education requirements, nor does it grant authority to the Department or the Board to take any disciplinary action against inspectors in any other respect. Therefore, there is no mechanism available to enforce any continuing education requirement on inspectors.*

Response

This issue also can only be addressed by future legislative amendments. While there is little enforcement authority for the Board to use, all professionals registered in this program are expected to meet the requirements as the legislature intended.

Comment

- 3. Inspectors are only authorized to practice within their jurisdictions, not statewide. The soil and groundwater conditions, the onsite technology in use, housing density, and public health threats from onsite sewage systems vary considerably from one jurisdiction to another. As a result, the amount and type of training required for an inspector to maintain competency varies considerably. There is no benefit to the profession or the public in establishing or enforcing uniform standards for inspector training statewide.*

Response

While it has already been noted that enforcement is limited in regard to certified inspectors, it would not be correct to generalize that “there is not value to the

public”. Inspectors around the state have a variety of experience, education and job responsibilities. The certificate of competency is a credential that enables these individuals to access job opportunities around the state. It also gives rise that the pool of inspectors will be more highly regarded because of the broader experience and education they acquire.

Comment

4. *Much of the training in onsite sewage disposal deals with issues and technology specific to Puget Sound counties, with little or no application to most of the remainder of the State. Therefore, requiring that inspectors from Eastern Washington attend training in the Puget Sound area that has little or no relevance to their professional practice imposes an undue burden, with very little or no benefit to the public. We strongly believe that our inspectors are benefiting the public much more when doing their jobs than attending training that has no application in their jurisdictions.*

Response

There are no requirements that inspectors attend training in western Washington or seminars that are specifically designed to target the design principles unique to western Washington. The rules give considerable flexibility to inspectors to obtain the training that they feel they need. Yet, learning a broader scope of skills will make any inspector a better professional and better able to serve the public in their jurisdiction.

Comment

5. *We feel very strongly that we, our Health Officers, and our Boards of Health are in a far better position to determine the training needs of our staffs than the Board of Registration for Professional Engineers and Land Surveyors, the Department of Licensing, or the Advisory Committee. As employers we must assure our staff is trained to do their work. We are ethically and legally (RCW 70.05) obligated to do this. Our inspectors have graduated from institutes of higher learning, and must maintain additional professional registrations. The training requirement for inspectors stated in the draft WAC is both redundant and unnecessary.*

Response

The rules adopted by the Board neither specify what training to obtain, where to obtain it or from whom to obtain it. The Board agrees that the local health organizations are best qualified to make those decisions along with the inspector themselves.

Comment

6. *The training needs of designers and inspectors are not the same, and it is futile to attempt to adopt one set of standards applicable to both.*

Response

The Board does have a measure of agreement in this statement. To address your concerns the Board expects that the rules being adopted will be constantly evaluated for appropriateness of application and usefulness to the registrants. While the Board does not feel they can “remove” the CE conditions for inspectors there may be opportunities to modify these rules so that conditions for compliance will incorporate the unique needs and conditions for the certified inspectors.

Comment

7. *We regard this requirement as an unfounded mandate. Please consider removing any mention of inspectors from the proposed rule. The Washington State Environmental Health Directors Association strongly opposes adoption of the rule as written.*

Response

Some of your observations (numbered 1 through 7) carry a measure of validity. Yet it was the legislature and not the Board who established the requirements for continuing education. The Board does not have the discretion to exclude continuing education for certified inspectors.

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Cc: Walt Fahrner, Agency Rules Coordinator
BPD Rules Coordinator